IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 9124 of 1996

Between:

G. Kumar,

Proprietor of M/s. Firdaus Tea & Snacks,

9-4-18/6/B-11/1,

Towli Chowki, Hyderabad.

..... PETITIONER

AND

1. The A.P.State Electricity Board,

rep.by its Secretary,

Vidyut Soudha, Somajiguda,

Hyderabad.

2. The Superintending Engineer,

Assessments, APSEB,

6-3-347/17/11-A,

Dwarakapuri Colony,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not permitting the petitioner to examine the inspecting officer and his squad members who inspected petitioner's premises on 6-1-1995 in the proceedings pending before him against the order

No.DEA/HYD/DAT:9106/D.No.1295/95, dt.30-11-1995 of the Divisional Engineer(Assessments) APSEB as highly illegal, arbitrary, unjust and opposed to principles of natural justice and pass such other order or orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the Respondents: SMT. M. VINOBHA DEVI, STANDING COUNSEL FOR APSEB

The Court made the following :

ORDER:

Heard the learned Counsel for the petitioner and also the learned Standing Counsel appearing on behalf of the respondents.

The petitioner, who is a proprietor of M/s. Firdaus Tea & Snacks, files this Writ Petition *inter alia seeking a* Writ of Mandamus declaring the action of the respondents in not permitting him to examine the inspecting officer and his squad members as illegal.

The case of the petitioner, in brief, is as follows:

On 04.01.1995, the petitioner's meter got struck-up suddenly, and therefore, he complained the same to the respondents and they made the supply direct temporarily. Subsequently, inspection was made on 06.01.1995 and pointed out certain irregularities on the part of the petitioner and issued a provisional assessment notice dt.12.01.1995 to the petitioner estimating the value of power alleged to have been pilferaged by him, for which the petitioner submitted his explanation dated 13.11.1995 and prior to his explanation, the 2nd respondent passed final orders. Aggrieved by the same, the petitioner preferred an appeal. During the pendency of the appeal, the petitioner filed a memo requesting the 2nd respondent to permit him to examine the inspecting officer and squad members, who inspected his premises on 06.01.1995. However, the said request was not accepted.

Hence the present writ petition.

Having heard the submissions made on either side and also on perusal of the record, it is seen that the present writ petitioner seeks only permission for examining the witnesses. Admittedly, the enquiry is still pending in respect of the provisional assessment made and also the explanations filed by the petitioner. As per settled law, opportunity should be given to every party so as to substantiate his case. It is observed that this Court in a batch of cases in W.P.Nos.18225, 18372, 18396 and 1944 accepted the claim of the petitioner therein and directed the 2nd respondent to examine the officials, who are considered to be relevant for the purpose of adjudicating the matter and the same was confirmed by a Division Bench in the appeal.

Having regard to the same, I do not find any reason in not permitting the petitioner herein to examine the said witnesses.

The writ Petition is allowed as prayed for.

25th November,2004

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That Rule Nisi has been made absolute as above.

Witness Hon'ble Sri Devinder Gupta, the Chief Justice, on this

Thursday, the Twenty Fifth day of November, Two Thousand and Four.

To

1. The Secretary,

A.P.State Electricity Board,

Vidyut Soudha, Somajiguda,

Hyderabad.

2. The Superintending Engineer,

Assessments, APSEB,

6-3-347/17/11-A,

Dwarakapuri Colony,

Hyderabad.

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